

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DAVID KHAN, ET. AL.,

Plaintiffs,

vs.

**CITY OF PINOLE POLICE DEPARTMENT, ET.
AL.,**

Defendants.

CASE NO. 4:19-cv-06316-YGR

**ORDER RE: NINTH CIRCUIT REFERRAL
NOTICE**

Re: Dkt. No. 63

On July 2, 2020, the Court issued its Order which, as relevant here, granted defendants' motions to dismiss. (Dkt. No. 60.) On that same day, plaintiff David Khan filed a Notice of Appeal from the Court's July 2, 2020 Order. (Dkt. No. 61.) On July 14, 2020, the Ninth Circuit referred the matter to this Court for a determination of whether Khan's *in forma pauperis* ("IFP") status should continue for this appeal. (Dkt. No. 63.)

This Court determines that it should not. There are no valid grounds on which an appeal can be based. Consequently, the Court certifies that any appeal taken from its July 2, 2020 Order will not be taken in good faith and is therefore frivolous. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. ("FRAP") 24(a)(3)(A); *Ellis v. United States*, 356 U.S. 674, 674-75 (1958); *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). Accordingly, Khan's IFP status is **REVOKED**.

The Clerk of the Court shall forthwith notify Khan and the Ninth Circuit of this Order. *See* FRAP 24(a)(4). Khan may file a motion for leave to proceed IFP on appeal in the Ninth Circuit within **thirty (30) days** after service of notice of this Order. *See* FRAP 24(a)(5). Any such motion "must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action." *Id.*

IT IS SO ORDERED.

Dated: August 4, 2020



**YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE**

USCA emailed and Plaintiff emailed re this Order. clerk